

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES)	
)	
)	
v.)	No. 16-40025-TSH
)	
CARLOS JIMENEZ)	
)	
)	

DEFENDANT’S MOTION TO SUPPRESS EVIDENCE

Defendant Carlos Jimenez, by and through undersigned counsel, hereby respectfully requests that this Honorable Court enter an order suppressing all statements and physical evidence derived from his vehicle stop by the Massachusetts State Police in Sturbridge, Massachusetts, on October 4, 2013, as obtained in violation of the Fourth and Sixth Amendments to the United States Constitution. He also moves to suppress any out-of-court or in-court identification of Jimenez at trial by the Government witness known as “CW” as posing a substantial likelihood of misidentification, thereby inadmissible under the Fifth and Fourteenth Amendments.

As set forth more fully in the accompanying Memorandum of Law, police pulled Jimenez and his passenger over on a pretextual marked lanes violation and then extended the stop to interrogate them based on less than reasonable suspicion of their involvement in the heroin trade, contrary to the holding of *Rodriguez v. United States*, 135 S. Ct. 1609, 1612 (2015). The conditions of Jimenez’s detention and interrogation exceeded a legitimate stop, such that he should have been afforded the protections of *Miranda v. Arizona*, 384 U.S. 436 (1966), and the resulting search lacked either valid consent or probable cause. All evidentiary fruits of the stop

including physical evidence and statements should be suppressed as fruit of the poisonous tree. *See Wong Sun v. United States*, 371 U.S. 471, 487-488 (1963). Moreover, the identification of Jimenez by the witness CW in a suggestive single-photo presentation was unfair and unreliable, and also should be suppressed.

WHEREFORE, the defendant respectfully requests that his Motion To Suppress be granted. In the alternative, the defendant requests a hearing on this issue.

Dated: November 29, 2016

Respectfully submitted,
CARLOS JIMENEZ
By and through his attorneys,

/s/ R. Bradford Bailey
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Certificate of Service

I, R. Bradford Bailey, hereby certify that on this the 29th day of November, 2016, I caused a true copy of the foregoing motion to be served upon all necessary parties to this matter by virtue of electronically filing the same via the CM/ECF system.

/s/ R. Bradford Bailey
R. Bradford Bailey